



Who should guard your interests?

From emotional wills to legal wills, Lien Foundation has been seeking to create greater public awareness about end-of-life issues through their Life Before Death campaign. Their latest initiative deals with an important issue for us to mull over – appointing a trusted guardian to carry out our wishes before we become unable to make decisions ourselves.

By Patrick Tan, Chairman of Law Society's Law Awareness Committee

“People tend to be focused on wealth accumulation and may think it is taboo to plan for eventualities in their lives. But life is unpredictable. Important decisions may need to be taken when you are still alive, but without the mental capacity to make these decisions yourself. This makes advance planning even more important,” 40-year old housewife Ms Tan Yan Lin shares.

The Office of the Public Guardian (OPG), a division within the Ministry of Community Development, Youth and Sports (MCYS) allows individuals to pre-plan through a legal instrument, the Lasting Power of Attorney (LPA). This allows individuals to appoint person(s) they trust to be their proxy decision maker, or donee, to act on their behalf should they lose the capacity to make their own decisions because of unexpected accidents, a stroke or dementia.

According to the Mental Capacity Act (MCA), there are five statutory principles that anyone making any decision or taking any action for a person who is mentally incapable must do so with the person's best interests in mind. The principles also require them to accord people with respect and dignity regardless of their state of mental capacity.

Ms Tan, together with her husband, have drafted their LPAs, in addition to their financial plans and wills.

“With the LPAs we have made, we have better peace of mind knowing that our financial planning is complete,” Ms Tan adds.

Unlike Ms Tan, 54-year old kitchen assistant

Madam Chan Fong Yin learnt about the importance of drafting a LPA the hard way.

“I had to go to court to be appointed my husband's deputy after he suffered a stroke eight years ago. The entire procedure was a hassle and time-consuming as I had to make multiple trips to the court. There were also legal fees involved,” Madam Chan recalls.

If an individual loses mental capacity and did not make an LPA, his family will need to apply to court to have a deputy appointed to take care of his interests, which can be a cumbersome process.

“I decided to make an LPA to appoint my only son to be my proxy decision maker in the event I lose the ability to manage my own affairs. In that way, he would be able to act for me automatically. I do not want him to endure all the trouble that I had to go through,” she reveals.

Do consider factors such as your decision maker's personality, whether he or she is well-acquainted with your values and preferences and your relationship with him or her before you appoint your donee/s.

There is no limit to the number of donees you may appoint as long as he or she is at least 21 years of age. If your donee is handling your property and affairs, he or she should not be an undischarged bankrupt. Of course, you should discuss your donee's willingness to be your appointed proxy decision maker, and to work together to avoid any disputes from arising where more than one donee is concerned. ✕

The registration fee of an LPA ranges from \$50 to \$200 depending on the requirements.

Criteria for someone to make an LPA

To make an LPA, an individual must:

- Be at least 21 years old;
- Have the mental capacity to make the LPA; and
- Not be an undischarged bankrupt.

For more information on:

LPA/MCA

www.publicguardian.gov.sg
Hotline: 1800 226 6222

Wills, free legal clinics and finding a lawyer

www.lawsociety.org.sg

This message is from the Lien Foundation as part of their Life Before Death campaign. Visit www.lifebeforedeath.com for more information